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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/542,530	06/26/2006	Antonio Spoletto	8004/1	7273
27774 7590 09/19/2008 MAYER & WILLIAMS PC 251 NORTH AVENUE WEST 2ND FLOOR WESTFIELD, NJ 07090				
EXAMINER				
KASTLER, SCOTT R				
ART UNIT		PAPER NUMBER		
1793				
MAIL DATE		DELIVERY MODE		
09/19/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/542,530

Applicant(s)

SPOLETO, ANTONIO

Examiner

Scott Kastler

Art Unit

1793

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF/88)
Paper No(s)/Mail Date 6/26/06
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____

DETAILED ACTION

Specification

The disclosure is objected to because of the following informalities:

A substitute specification in proper idiomatic English and in compliance with 37 CFR 1.52(a) and (b) is required. The instant specification appears to be a direct translation of the foreign priority document and contains numerous grammatical and idiomatic errors. The substitute specification filed must be accompanied by a statement that it contains no new matter.

Appropriate correction is required.

Claim Interpretation

In light of the above rejections and objections, the claims have been interpreted as follows:

Claims 1-15 are interpreted as being directed to a plant for melting primary and secondary aluminum with screening and recovery of slags. In light of the term "it uses" the claims recite a plant which is employed for a purpose (melting aluminum) where certain components "are used" in conjunction with the plant. However, an apparatus (in the instant case the plant) cannot be fairly further limited by the use of the apparatus (either using the instantly claimed plant for the processing of aluminum in any manner) or the use of other components in conjunction with the claimed apparatus. See MPEP 2114 and 2115. If the claims are intended to be directed to a plant where comprises or is made up of certain components, the claims should be amended accordingly.

Claim Objections

Claims 2-15 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. The above claims do not fairly further limit independent apparatus claim 1 because these terms recite only limitations dealing with the manner or method of use of the claimed apparatus (in the case of claims 11-14) or the use of the claimed apparatus in conjunction with other components not part of the claimed apparatus (with respect to claims 2-10 and 15), and it has been well settled that the manner or method of use of an apparatus cannot alone be relied upon to fairly further limit claims to the apparatus itself. See MPEP 2114 and 2115.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors. Examples of these errors are as follows:

1. The term “realizes” in claim 1 renders the claims unclear as to their scope in that it is not clear how or in what manner the following result is to be “realized”.

2. The claims are replete with terms lacking any proper antecedent basis, the following are only examples:

“the hole” (claim 1)

“the spherical storage basin” (claim 1)

“the extremity” (claim 2)

“the loading porthole” (claim 2)

“the favorite negative inclination” (claim 3)

“the left and right extremities of the body” (claim 4)

“the openings” (claim 4)

“the rotating module of selection” (claims 8 and 10)

“the pipelines” (claim 15)

As stated these are only examples and all claims should be amended to provide all terms with proper antecedent basis.

3. The claims are replete with terms lacking clarity in that they are not defined in the specification or employed in an art recognized manner, the following are only examples:

a) “a favorite semicircular section” (claim 5) in that no section is defined as “favorite”

b) “the galleries or channels (12) have whatever section, e.g. circular, elliptical or polygonal” (claim 7) does not adequately define any shape for the galleries or channels, thereby rendering the scope of the claims unascertainable.

c) “cochelea” or a “cochelea system” (claim 9) where this term is not defined in the specification other than to state that it exists, while the dictionary definition of this term states that it is a portion of the inner ear and has nothing to do with any type of metallurgical apparatus.

4. The claims also contain numerous grammatical and idiomatic errors, the following being only examples:

- a) “positioned everyone below a cylinder” (claim 9)
- b) “placeables on tracks” (claim 10)
- c) “whatever section” (claim 7)

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-15 are rejected under 35 U.S.C. 102(b) as being anticipated by the article to Unlu et al titled “Comparison of salt free aluminum dross treatment processes” (Unlu et al). Unlu et al teaches a plant, in the embodiment described at page 63 for example, which can be employed to melt aluminum without salt and could be employed with any of the other described components or employed in the recited manner, thereby showing all properly limiting aspects of the above claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Each of Cheesman, Roser, Lohse and Moklebust, all teaching plants which could be employed for melting aluminum, and which also both could be employed with or include a rotary furnace including spiral elements are also cited as further examples of prior art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott Kastler whose telephone number is (571) 272-1243. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Roy King can be reached on (571) 272-1244. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Scott Kastler/
Primary Examiner, Art Unit 1793

sk